

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LYON STONE TRUST,

Plaintiff,

v.

KELLI EVANS, et al.,

Defendants.

Case No. [22-cv-04470-SI](#)

**ORDER RE IN FORMA PAUPERIS  
STATUS ON APPEAL**

Re: Dkt. No. 9

The Court has received a referral notice from the Ninth Circuit Court of Appeal. Dkt. No. 9. The notice directed the Court to determine whether in forma pauperis (IFP) status should continue for plaintiff's appeal or whether the appeal is frivolous or taken in bad faith. *See* 28 U.S.C. § 1915(a)(3). Due to an administrative error, the Court failed to issue a determination within 21 days as requested by the Ninth Circuit. Dkt. No. 9. The Ninth Circuit has observed that plaintiff's in forma pauperis status continues absent revocation of that status. *Order, Stone Lyon Trust v. Kelli Evans*, No. 22-16377 (9th Cir. Oct. 25, 2022).

An appeal is in "good faith" where any issue raised is "non-frivolous." *Hooker v. American Airlines*, 302 F.3d 1091, 1092. An issue is "frivolous" if it has "no arguable basis in fact or law." *See O'Loughlin v. Doe*, 920 F.2d 614, 617 (9th Cir. 1990).

A claim has no arguable basis in fact or law if it is incomprehensible. *Jackson v. State of Ariz.*, 885 F.2d 639, 641 (9th Cir. 1989), *superseded by statute on other grounds as stated in Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000). Plaintiff's appeal is frivolous because it is incomprehensible. *Id.* Accordingly, if the Ninth Circuit will accept this late determination, in forma pauperis status is revoked.

**IT IS SO ORDERED.**

Dated: December 2, 2022



SUSAN ILLSTON  
United States District Judge